

## REMARKS

This amendment is responsive to the Office Action mailed December 9, 2008. In the Office Action, Claims 1, 13, and 18 were rejected under 35 U.S.C. § 101 as allegedly being directed to nonstatutory subject matter. Claims 1-27 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Madoff et al. (U.S. Patent Application Publication No. 2001/0044767) in view of Hirayama (U.S. Patent No. 6,944,879).

For the reasons discussed below, applicant traverses the claim rejections and maintains that the claims are patentable over Madoff and Hirayama.

### Status of the Claims

Claims 1, 3-5, 8-14, 18, 20, and 24-27 have been amended to confirm that the claims are directed to statutory subject matter. No claims have been canceled. New Claims 28 and 29 have been added. Accordingly, Claims 1-29 are pending in the application.

### Interview Summary

Prior to discussing the patentability of the claims, the undersigned counsel wishes to thank Examiner Graham for the time and consideration he extended in a telephonic interview on June 9, 2009. In summary, the interview focused on the independent claims, including Claims 1 and 13. Agreement was reached that the claims with proposed amendments meet the requirements of Section 101. The patentability of the claims over Hirayama and Madoff was also discussed. At the conclusion of the interview, applicant agreed to formally submit the present amendment for further consideration.

### Claims 1, 13, and 18 Are Directed to Statutory Subject Matter

Applicant respectfully submits that each of amended Claims 1, 13, and 18 recite statutory subject matter under 35 U.S.C. § 101. At a minimum, the computer-implemented method claimed in Claim 1 is tied to a particular machine or apparatus comprised of "one or more computer processors," which is statutory subject matter. Furthermore, each of the elements in Claim 1 positively recites actions performed "at a market participant's computer."

Claims 13 and 18, as amended, are directed to a tangible computer-accessible medium having executable instructions stored thereon, wherein the instructions, if executed by a computer, cause the computer to undertake certain actions. A tangible computer-accessible medium as recited in Claims 13 and 18 is well recognized as statutory subject matter under Section 101.

For at least the foregoing reasons, applicant submits that each of Claims 1, 13, and 18 meets the requirements of 35 U.S.C. § 101. The claim rejections under Section 101 should therefore be withdrawn.

Claims 1-29 Are Patentable over Madoff and Hirayama

Applicant respectfully submits that Madoff and Hirayama fail to teach or suggest all of the elements of Claims 1-29 in a manner that renders the claims obvious. For at least the reasons discussed below, the references do not support a *prima facie* rejection of the claims under 35 U.S.C. § 103(a).

Claims 1-3 and 21-25

Claim 1 is directed to a computer-implemented method of facilitating trading at a market.

The claimed method includes, *inter alia*:

receiving input from a market participant at a market participant's computer, wherein the market participant is a trading party participating in the market with other market participants, wherein the input provides a price for a side of a trade at the market, and wherein the input satisfies a market-related condition.

The Office Action cited Hirayama as disclosing the above-recited elements of Claim 1. However, applicant respectfully disagrees. As per its abstract, Hirayama allegedly teaches:

A data-providing system comprising a first data-transmitting section (control unit 1), a control section (control unit 3), and a second data-transmitting section (control unit 3). The first data-transmitting section transmits a continuous stream of content data that consists of multimedia content groups, each composed of program data and auxiliary data items. The control section processes data items obtained by dividing each program data, attribute data of the auxiliary data items and user profile data, thereby to automatically assemble new data. The second data-

transmitting section changes the order in which to transmit the auxiliary data items inserted in a program, in accordance with the new data assembled by the control section.

As evidenced by the abstract of Hirayama, the disclosure of Hirayama has nothing to do with facilitating trading at a market. The Office Action cited Hirayama at Col. 5, lines 25-40; Col. 6, lines 1-42; and Col. 13, lines 1-14. As provided in applicant's last response, the cited sections of Hirayama are repeated as follows for ease of reference:

The program-providing section 10 incorporated in the system 100 has a communication function 10A of receiving data from, and transmitting data to, the CM sponsor section 20, authoring section 30 and charge-settling section 50. The program-providing section 10 has a data-depositing function 10B that transmits programs and accompanying data to the authoring section 30. The accompanying data includes program prices for users, BY(backyard)-side program equivalent conditions, possible cue positions designated. Further, the program-providing section 10 has a program-providing function 10C that supplies program data to the CM sponsor section 20. Moreover, the program-providing section 10 has a charge-settling function 10D, which settles charges in accordance with the periodical statement sent from the charge-settling section 50 and concerning each player, i.e., a CM sponsor.

(Hirayama, Col. 5, lines 25-40)

... authoring section 30 has a CM-group designating function 30C that designates at least one of CM groups included in a CM library, which should be inserted into a specified program, in accordance with the advice made by the CM sponsor section 20. The CM-group designating function 30C also allocates programs codes designating the programs into which CM groups should be inserted, in accordance with the advice made by the CM sponsor section 20. The CM groups designated by the CM-group designating function 30C will be called "CM sets" hereinafter. The authoring section 30 has a first registering/storing/transmitting function 30D. This function 30D registers, stores and transmits the program prices for users, i.e., the prices the users should pay for the programs transmitted (or not transmitted) to them. The first registering/storing/transmitting function 30D also registers, stores and transmits the BY-side program equivalent conditions, i.e., the conditions in which the suppliers (players such as CM sponsors, transmission server owners, authoring function owners, charge-settling function owners, program providers and the like) transmit (or do not transmit) programs. The authoring section 30 has a second registering/storing/transmitting function 30E, which determines the order in which the CM sets prepared for a certain program should be

transmitted, in accordance with the advice made by the CM sponsor section 20. The function 30E stores the order thus determined, as a CM-transmission list. The function 30E registers, stores and transmits the CM advantages and disadvantages that the users may have when CMs designated in the CM-transmission list are transmitted (or not transmitted). The authoring section 30 further has a third registering/storing/transmitting function 30F. This function 30F registers, stores and transmits the BY-side CM equivalent conditions specifying the equivalents which should be paid among the suppliers (players such as CM sponsors, transmission server owners, authoring function owners, charge-settling function owners, program providers and the like) when the CMs included in the CM-transmission list are transmitted (or not transmitted). The authoring section has a charge-settling function 30G, too. The charge-settling function 30G settles charges in accordance with the periodical statement sent from the charge-settling section 50 and concerning each player, i.e., each authoring function.

(Hirayama, Col. 6, lines 1-42)

In the first Step S1, the data-depositing function 10B of the program-providing section 10 transmits programs and accompanying data to the authoring section 30 (Step S1a). The accompanying data includes the program prices for user, the BY-side program equivalent conditions, the possible cue positions designated, and the like. In the authoring section 30, the first registering/storing/transmitting function 30D receives and stores the programs, program prices for user, BY-side program equivalent conditions and possible cue positions designated, all transmitted from the program-providing section 10 (Step S1b). The cue-mark inserting function 30B inserts cue marks into the programs (S1c), each mark being a signal indicating where in a program a CM can be inserted.

(Hirayama, Col. 13, lines 1-14)

Applicant has again reviewed these sections of Hirayama, and indeed, the entire disclosure of Hirayama, and confirms that Hirayama fails to teach any elements of Claim 1 of the present application. In particular, there is nothing in Hirayama that suggests a "market participant [that] is a trading party participating in a market with other market participants," and further, it is nowhere evident that Hirayama teaches "receiving input from a market participant at a market participant's computer, . . . wherein the input provides a price for a side of a trade at the market . . . and satisfies a market-related condition."

In *KSR International Co. v. Teleflex Inc.*, 550 U.S. \_\_\_, \_\_\_, 82 U.S.P.Q.2d 1385, 1395-97 (2007), the Supreme Court indicated that the key to supporting any rejection under 35 U.S.C. § 103 is a clear articulation of the reason(s) why the claimed invention would have been obvious. See also M.P.E.P. § 2143.

Further, applicant notes that under 37 C.F.R. § 1.104(c)(2), describing the Office's responsibility, under the "Rejection of Claims" heading, that "when a reference is complex or shows or describes inventions other than that claimed by the applicant, the particular part relied on must be designated as nearly as practicable. The pertinence of each reference, if not apparent, must be clearly explained and each rejected claim specified." The Office Action has failed to properly designate the parts of Hirayama and Madoff relied upon as *nearly as practicable* in rejecting the pending claims. The Office Action broadly cites several portions of Hirayama (as well as Madoff, discussed below) but does not *clearly explain* how the disclosure teaches any of the claimed features.

Should the Examiner continue to reject Claim 1 using Hirayama as a reference, the Examiner must identify *with particularity* the features of Hirayama that allegedly disclose the elements of Claim 1.

Given the fact that Hirayama teaches nothing about facilitating trading at a market, applicant agrees with the Office Action (page 4), which conceded that Hirayama fails to teach "at the market participant's computer, receiving a new contra-side best market price in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the input received at market participant's computer." The Office Action instead relied on Madoff as disclosing these elements of Claim 1. However, applicant has reviewed the disclosure of Madoff and strongly disagrees that Madoff overcomes the deficiencies of disclosure of Hirayama.

By this amendment, Claim 1 was clarified such that it recites:

automatically, at the market participant's computer, receiving from the market a new contra-side best market price for the trade in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the input received at the market participant's computer.

Madoff discloses a process that merely operates in a conventional fashion to match newly received orders with other orders. See, for example, paragraph 55, lines 5-7, of Madoff which states "the process 100 exposes 104 the order to the crowd, i.e., potential responders 14, via an electronic broadcast over the network systems mentioned above." In other words, *all orders* are exposed to *all participants* at the *same time*, as is done in conventional market systems.

The Office Action did not identify which aspect of Madoff constitutes the claimed "market-related condition" that the input must satisfy for the market participant's computer to receive a new contra-side best market price for the trade in advance of the other market participants, as claimed in Claim 1. Applicant submits there are no market-related conditions disclosed by Madoff that, when satisfied, result in a market participant's computer receiving a new contra-side best market price in advance of other market participants.

The Office Action (page 4) alleged:

Madoff discloses according to an aspect of the invention, a method of auctioning products over a distributed networked computer system is provided [sic]. The method is executed over the system and includes entering an order for a product. The order can specify a price. The price can be a fixed price, a relative price or a market price. The order also specifies a quantity and an exposure time. The process also includes entering a response to an order, the response specifying a price, price improvement, and quantity and matching the order with the response in accordance with the exposure time specified by the order.

While applicant does not concede that the foregoing description accurately represents the teachings of Madoff, applicant submits that the foregoing description is inapplicable to the patentability of Claim 1. The above description has no bearing on the elements of Claim 1 in which "a new contra-side best market price for the trade" is received at a market participant's computer "in advance of the other market participants as a result of satisfying the market-related

condition and only while the market-related condition is satisfied by the input received at the market participant's computer."

In support of the rejection of Claim 1, the Office Action cited the Abstract and paragraphs [0006]-[0011] of Madoff, as well as paragraphs [0055]-[0057] and [0062]. For reference, the Abstract of Madoff reads as follows:

A system for auctioning financial products over a distributed, networked computer system includes a plurality of workstations for entering orders for financial products into the distributed, networked computer system. The orders specify a price for the financial product, a quantity of the financial product and exposure time which the order can remain active. The system also includes a plurality of workstations for entering predefined relative indication and responses to orders for the product. The predefined relative indications specify a willingness to trade. The responses specify a price and quantity. The system includes a server computer coupled to the workstations for entering the orders, predefined relative indications, and the responses, with the server computer executing a server process that for a first one of said orders, determines a match to said first order with the predefined relative indications, responses and contra-side orders during an interval determined by the exposure time specified by said first order.

The remaining paragraphs [0006]-[0011] are too lengthy to repeat herein. However, applicant has again carefully reviewed the cited passages, and indeed the entire disclosure of Madoff, and finds nothing that teaches or suggests the elements of Claim 1, including "automatically, at the market participant's computer, receiving from the market a new contra-side best market price for the trade in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the input received at the market participant's computer."

The cited paragraphs at [0055]-[0057] and [0062] are repeated as follows (with emphasis added for discussion purposes):

[0055] Referring now to FIGS. 10A-10B, a server process 100 that may be executed on the auction system 20 is shown. The server process 100 receives an order 101 entered by the order side 12 of the system 10, via the order entry format 101 (FIG. 10A). *The process 100 exposes 104 the order to the crowd, i.e., potential responders 14, via an electronic*

*broadcast over the network systems mentioned above. The system 10 displays the size of the order and the order remains displayed for the life span of the order or until an execution ends the auction. The process 100 compares 106 the order to any existing pre-defined relative indications, contra-side orders or responses (if responses are chosen to have a lifetime as discussed below) that exist in the system 10 at order receipt.*

*[0056] If there are pre-defined relative indications or contra-side orders or responses (if responses have a lifetime) in the system 10, the process 100 will attempt to match 108 those existing pre-defined relative indications or contra-side orders or responses to the order. For predefined relative indications, the match process 108 will examine the pre-defined relative indication that exists, at the best price and which is the oldest at that best price, and will determine whether that pre-defined relative indication matches any conditions that may exist with the order. The same criteria could be applied to existing contra-side orders or responses. If there is a match, the order will be executed 110 with that pre-defined relative indication.*

*[0057] If there is not a match, the process can iterate through a queue of pre-defined relative indications, contra-side orders and responses to determine the next oldest pre-defined relative indications, contra-side orders and responses at that best price to determine a match. The match process 108 attempts to find the pre-defined relative indications, contra-side orders and responses with the best price improvement or best price, as appropriate, and that is the oldest in the auction system 20 at that price improvement and which satisfies all conditions of the order and validating constraints that may apply. For example, if a price is specified outside of the NBBO [National Best Bid/Offer] it may be matched by the system 20 but will not pass validation. The system 20 can adjust the price so that it falls at the NBBO at the time of the execution.*

*...  
[0062] An alternative arrangement to that shown above could have the process 20 allow responses to have a lifespan coextensive with the lifespan of the auction process. If the system 20 allows responses to have a lifespan, but if there are no other orders, the process 100 will expire (not shown) all remaining responses in the system 20.*

These paragraphs of Madoff support applicant's assertion that Madoff fails to teach or suggest the elements recited in the claims. Madoff's process simply tries to match newly received orders with other orders in a conventional fashion. See, for example, paragraph [0055], lines 5-7 (quoted above), in which Madoff states "the process 100 exposes 104 the order to the crowd, i.e., potential responders 14, via an electronic broadcast over the network systems



mentioned above." Orders received at the process 100 are exposed to all of the participants at the same time, as is done in conventional market systems.

Since the cited references do not disclose or suggest the elements of Claim 1, there is no combination of Hirayama and Madoff that renders Claim 1 obvious. Therefore, given the lack of a *prima facie* rejection of Claim 1 under Section 103, applicant respectfully requests that the rejection be withdrawn and the claim allowed.

Claims 2, 3, and 21-25 are also patentable over Hirayama and Madoff, both for their dependence on allowable Claim 1 and for the additional subject matter they recite.

For example, Claim 3 recites the method of claim 1, "*wherein the input satisfies the market-related condition by providing the best market price for a side of the trade at the market.*" Claim 25 further defines the "best market price" recited in Claim 3 for the sell side and the buy side of the trade at the market. According to Claim 25, "*for a sell side of the trade at the market, the best market price is the lowest ask price that any of the market participants have offered to take to sell,*" or "*for a buy side of the trade at the market, the best market price is the highest bid price that any of the market participants have offered to pay to buy.*" These features are not taught or suggested by Hirayama or Madoff. Withdrawal of the claim rejections and allowance of Claims 2-3 and 21-25 are requested.

#### Patentability of Claims 4-7, 26, and 27

Claim 4 is directed to a computer-implemented method of facilitating trading at a market that includes "automatically . . . selecting a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants, wherein the selected party is a market participant participating in a market with the other market participants, and wherein the selected party has provided a price for a side of the trade at the market" and "automatically . . . notifying the selected party of the new contra-side best market price for the trade in advance of the other market participants."

The method of Claim 4 further includes "automatically . . . measuring a predetermined time from when notification of the new contra-side best market price was sent to the selected party and, after the predetermined time has elapsed, notifying the other market participants of the new contra-side best market price."

The Office Action (pages 4-5) rejected Claim 4 as allegedly being unpatentable over Hirayama in view of Madoff. Applicant strongly disagrees and submits that Claim 4 is in fact patentable over Hirayama and Madoff.

For reasons similar to those discussed above relative to Claim 1, applicant submits that Hirayama and Madoff fail to teach any aspect of measuring a predetermined time from when notification of a new contra-side best market price is sent to a selected party and, after the predetermined time has elapsed, notifying other market participants of the new contra-side best market price. Absent specific facts supporting a *prima facie* case of obviousness, withdrawal of the rejection of Claim 4 based on Hirayama and Madoff is proper.

Claims 5-7, 26, and 27 are also patentable over Hirayama and Madoff, both for their dependence on allowable Claim 4 and for the additional subject matter they recite. For example, Claim 5 recites the method of claim 4, "*wherein the selected party is a provider of a best market price for a side of the trade at the market.*" Claim 27 further defines the "best market price" recited in Claim 5 for the sell side and the buy side of the market. According to Claim 27, "*wherein for a sell side of the trade at the market, the best market price is the lowest ask price that any of the market participants have offered to take to sell,*" or "*for a buy side of the trade at the market, the best market price is the highest bid price that any of the market participants have offered to pay to buy.*" These elements are not taught or suggested by either Hirayama or Madoff. Accordingly, applicant requests withdrawal the claim rejections and allowance of Claims 5-7, 26, and 27.

### Patentability of Claims 8-12

Claim 8 is directed to a system for facilitating trading at a market. The system includes a computer having a processing component and a memory. The Office Action (page 6) rejected Claim 8 as being unpatentable over Hirayama and Madoff. However, nothing in Hirayama or Madoff suggests a computer having a processing component that is configured to execute instructions stored in the memory that cause the processing component to select a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants, as claimed in Claim 8. Hirayama or Madoff also do not suggest a processing component that is further configured to execute instructions stored in the memory that cause the processing component to measure a predetermined time from when notification of a new contra-side best market price is sent to the selected party and, after the predetermined time has elapsed, to notify the other market participants of the new contra-side best market price.

Hirayama purportedly teaches a data-providing system comprising a first data-transmitting section (control unit 1), a control section (control unit 2), and a second data-transmitting section (control unit 3). The first data-transmitting section transmits a continuous stream of content data that consists of multimedia content groups, each composed of program data and auxiliary data items. The control section processes data items obtained by dividing each program data, attribute data of the auxiliary data items and user profile data, thereby to automatically assemble new data. The second data-transmitting section changes the order in which to transmit the auxiliary data items inserted in a program, in accordance with the new data assembled by the control section. See, e.g., the Abstract of Hirayama. From a review of Hirayama, it is evident that the disclosure of Hirayama does not teach or suggest any of the elements recited in Claim 8.

For its part, Madoff purportedly teaches a system for auctioning financial products over a distributed, networked computer system. The system includes a plurality of workstations for entering orders for financial products into the distributed, networked computer system. The

orders specify a price for the financial product, a quantity of the financial product and exposure time in which the order can remain active. The system also includes a plurality of workstations for entering predefined relative indication and responses to orders for the product. The predefined relative indications specify a willingness to trade. The responses specify a price and quantity. The system includes a server computer coupled to the workstations for entering the orders, predefined relative indications, and the responses, with the server computer executing a server process that for a first one of said orders, determines a match to said first order with the predefined relative indications, responses and contra-side orders during an interval determined by the exposure time specified by said first order. See, e.g., the Abstract of Madoff.

From a review of the disclosure of Madoff, it is evident that Madoff does not teach or suggest the elements recited in Claim 8. The process disclosed by Madoff simply tries to match newly received orders with other orders in a conventional fashion. See, for example, paragraph [0055], lines 5-7, in which Madoff states "the process 100 exposes 104 the order to the crowd, i.e., potential responders 14, via an electronic broadcast over the network systems mentioned above." Orders received at the process 100 are thus exposed *to all of the participants at the same time*, as is done in conventional market systems.

The disclosure of Madoff, in fact, teaches away from Claim 8, which recites a processing component that "select[s] a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants." (Emphasis added.) According to Claim 8, the processor also "measure[s] a predetermined time from when notification of a new contra-side best market price is sent to the selected party" and, after the predetermined time has elapsed, the processor "notif[ies] the other market participants of the new contra-side best market price." Nowhere does Madoff teach such elements of Claim 8.

Absent specific facts supporting a *prima facie* case of obviousness, withdrawal of the rejection of Claim 8 based on Hirayama and Madoff is warranted. Claim 8 should be allowed.

Claims 9-12 are also patentable over Hirayama and Madoff, both for their dependence on allowable Claim 8 and for the additional subject matter they recite.

Patentability of Claims 13-17

Claim 13 is directed to a tangible computer-accessible medium having executable instructions stored thereon for facilitating trading at a market. The instructions, if executed by a computer, cause the computer to "select a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants, wherein the selected party is a market participant participating in the market with the other market participants, and wherein the selected party has provided a price for a side of the trade at the market."

The instructions further cause the computer to "notify the selected party of the new contra-side best market price," to "measure a predetermined time from when notification of the new contra-side best market prices is sent to the selected party," and "after the predetermined time has elapsed, to notify the other market participants of the new contra-side best market price."

For at least reasons similar to those discussed above with regard to Claims 1 and 8, applicant submits that Claim 13 is patentable over Hirayama and Madoff. Claims 14-17 are also patentable over Hirayama and Madoff, both for their dependence on allowable Claim 13 and for the additional subject matter they recite.

Patentability of Claims 18-20

Claim 18 is directed to a tangible computer-accessible medium having executable instructions stored thereon for facilitating trading at a market. The market has a best market price for a side of a trade at the market and a best market price for a contra-side of the trade at the market. The instructions, if executed by a computer, cause the computer to "receive an order having a new price for a side of the trade at the market," and "determine if the new price is better than the best market price for the side of the market." If the new price is better than the best

market price for the side of the trade at the market, the instructions further cause the computer to "identify a trading party that is currently providing the best market price for the contra-side of the trade at the market" and "notify the trading party of the new price, wherein the notification is sent to the trading party in advance of sending notification of the new price to other market participants in the market." The trading party is thus "given a first look at the new price before the other market participants."

The Office Action relied on Hirayama and Madoff as allegedly disclosing the elements recited in Claim 18. Applicants respectfully disagree. Applicant has carefully considered the citation of Hirayama at Col. 5, lines 25-40; Col. 6, lines 1-42; and Col. 13, lines 1-14; and Madoff at paragraphs [0006]-[0011], [0055]-[0057], [0062] and the abstract, as set forth in the Office Action, and found that Hirayama and Madoff singly and collectively fail to teach or suggest the elements of Claim 18. Accordingly, applicant submits that Claim 18 is in patentable condition.

Claims 19-20 are also patentable over Hirayama and Madoff, both for their dependence on allowable Claim 18 and for the additional subject matter they recite.

#### Patentability of New Claims 28 and 29

Claim 28 is an independent claim and recites a computer system that is configured to facilitate trading at a market. The computer system includes "means for receiving input from a market participant providing a price for a side of a trade at the market, wherein the market participant is a trading party participating in the market with other market participants, and wherein the input satisfies a market-related condition by providing the best market price for the side of the trade at the market."

The computer system further includes "means for receiving from the market a new contra-side best market price for the trade in advance of the other market participants as a result of satisfying the market-related condition and only while the market-related condition is satisfied by the received input."

For at least reasons similar to those discussed above with respect to Claims 1 and 3, applicant submits that the combination of Hirayama and Madoff (to the extent the references can be combined, which applicant does not concede) do not render obvious the elements of Claim 28. Claim 28 should therefore be allowed.

Claim 29 is another independent claim and is directed to a computing device that facilitates trading at a market. The computing device includes "a processor configured to select a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants, wherein the selected party is a market participant participating in the market with the other market participants, and wherein the selected party has provided a price for a side of the trade at the market."

Additionally, the processor or another processor in the computing device "is configured to notify the selected party of the new contra-side best market price for the trade and to measure a predetermined time from when notification of the new contra-side best market price is sent to the selected party."

Still further, the processor or another processor in the computing device "is configured to notify the other market participants of the new contra-side best market price after the predetermined time has elapsed."

The combination of elements recited in Claim 29 is not taught or suggested by Hirayama and/or Madoff, as discussed above, e.g., with respect to Claim 8. Neither Hirayama nor Madoff teaches or suggests selecting a party to receive notification of a new contra-side best market price for a trade at the market in advance of other market participants; nor do the references teach or suggest measuring a predetermined time from when notification of the new contra-side best market price is sent to the selected party, and notifying the other market participants of the new contra-side best market price after the predetermined time has elapsed.

For at least the above reasons, Claim 29 should be allowed.

Information Disclosure Statement

As a final matter, applicant wishes to provide clarification regarding the Information Disclosure Statement dated March 26, 2002, which appears in the application file for the present application. The referenced Information Disclosure Statement pertains to a different application, namely, Application No. 09/802,613. In contrast, the present application was assigned Application No. 09/802,163. The Information Disclosure Statement appears to have been misfiled by the Patent Office and should be removed from the prosecution file for this application.

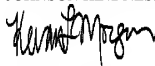
CONCLUSION

Applicant respectfully submits that the claims in the present application are directed to statutory subject matter under Section 101. Furthermore, the disclosures of Hirayama and Madoff are deficient and do not support a *prima facie* case of obviousness of Claims 1-29. The rejection of the claims should be withdrawn and the claims allowed.

Should any issues remain needing resolution prior to allowance, the Examiner is invited to contact the undersigned counsel by telephone.

Respectfully submitted,

CHRISTENSEN O'CONNOR  
JOHNSON KINDNESS<sup>PLLC</sup>



Kevan L. Morgan  
Registration No. 42,015  
Direct Dial No. 206.695.1712

KLM:jmb